

Message Text

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PAGE 01 MEXICO 05012 01 OF 02 282202Z

ACTION EB-08

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 9146

INFO USMISSION GENEVA

UNCLAS SECTION 01 OF 02 MEXICO 05012

USMTN

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SUBJECT: NEW MEXICAN TAXATION OF IMPORTED ALCOHOLIC
BEVERAGES WILL CLOSE MARKET FOR IMPORTS.

1. SUMMARY: MEXICO IS FOLLOWING A POLICY OF NON-
NATIONAL TAXATION OF FOREIGN ALCOHOLIC BEVERAGES.
HITHERTOFORE THIS TAXATION WAS SMALL BUT ON JANUARY 1,
1978, MEXICO INCREASED IT TO THE POINT THAT A SLOWLY
GROWING, BUT POTENTIALLY SUBSTANTIAL, MARKET FOR U.S.
ALCOHOLIC BEVERAGES IS FORECLOSED IF THE INCREASE
REMAINS IN FORCE. IN VIEW OF LARGE MEXICAN EXPORTS OF
TEQUILA - AS WELL AS BEER AND SOME WINE - TO THE U.S.
AND THE LARGE POTENTIAL MARKET FOR U.S. WINES HERE, WE
REQUEST GUIDANCE IN FORMULATING A NOTE TO THE MEXICAN
GOVERNMENT. END SUMMARY.

2. EFFECTIVE JANUARY 1, 1978, MEXICO MODIFIED ITS "LAW
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PAGE 02 MEXICO 05012 01 OF 02 282202Z

OF TAXATION OF THE INDUSTRIES OF SUGAR, ALCOHOL, SPIRITS,
AND PACKING OF ALCOHOLIC BEVERAGES" (PUBLISHED IN THE
DIARIO OFFICIAL OF DECEMBER 30, SECTION FOUR, PAGE 23).
IMPORTED ALCOHOLIC BEVERAGES ARE BEING TAXED AT A MUCH
HIGHER RATE THAN DOMESTIC ONES. ARTICLE TEN OF THE
REVISED LAW ASSESSES THE TAX ON THE HIGHEST PRICE
CHARGED THE RETAILER. ARTICLE TWELVE OF THE LAW DIVIDES

ALCOHOLIC BEVERAGES INTO FIVE CLASSES, THE FIRST FOUR APPLY TO DOMESTIC BEVERAGES AND THE LAST TO IMPORTED ONES. FOLLOWING IS A LIST OF THE CLASSES AND THEIR TAXATION RATE:

CLASS 1 - 10 PERCENT: TABLE WINES AND CIDERS MANUFACTURED EXCLUSIVELY FROM GRAPES OR FRESH FRUIT WITH AN ALCOHOLIC CONTENT OF UP TO 14 PERCENT.

CLASS 2 - 20 PERCENT: TABLE WINES AND CIDERS NOT INCLUDED IN THE ABOVE, ALSO WINES SUCH AS TONIC WINES AND VERMOUTH, THAT CONTAIN A MINIMUM OF 75 PERCENT GRAPE WINE.

CLASS 3 - 35 PERCENT: BRANDIES THAT CONTAIN MORE THAN 80 PERCENT OF GRAPE SPIRIT.

CLASS 4 - 45 PERCENT: ALCOHOLIC BEVERAGES NOT INCLUDED IN THE PREVIOUS 3 CATEGORIES.

CLASS 5 - 50 PERCENT: IMPORTED ALCOHOLIC BEVERAGES AND THOSE NOT INCLUDED IN THE FIRST 4 CATEGORIES AND CONCENTRATES.

3. THE TARIFF ON WINE IS 35 PERCENT PLUS AN ADDITIONAL 17 PERCENT TO FUND EXPORT PROMOTION. WHISKEYS AND BRANDIES UNCLASSIFIED

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PAGE 03 MEXICO 05012 01 OF 02 282202Z

WERE REMOVED FROM LICENSING LAST YEAR AND ARE NOW TARIFFED AT 100 PERCENT. ARTICLE TEN, LEVYING THE TAX ON THE PRICE THE RETAILER PAYS, GREATLY ESCALATES THE IMPACT OF THE TAX BECAUSE IT FALLS ON IMPORT PRICE PLUS MARKUPS PLUS TARIFF.

4. UPON LOOKING INTO THE MATTER WE HAVE DISCOVERED THAT MEXICO HAS LONG TAXED FOREIGN ALCOHOLIC BEVERAGES DIFFERENTIALLY. FOR EXAMPLE, BEFORE THE NEW LAW IT HAD A TAX OF 16.20 PESOS PER LITER ON FOREIGN WINE (EQUIVALENT OF ABOUT U.S.\$50 PER BOTTLE POST DEVALUATION). HOWEVER, THIS TAX HAS NOT BEEN MUCH OF A BURDEN GIVEN ITS SPECIFIC NATURE AND THE QUALITY DIFFERENCES OF FOREIGN WINES OVER MEXICAN ONES.

5. WINE IS IMPORTED UNDER LICENSE IN MEXICO. THE U.S. HAS AN ANNUAL QUOTA OF 15,000 CASES, WHICH WAS ESTABLISHED IN 1976 UPON OUR REQUEST. ACCORDING TO KNOWLEDGEABLE IMPORTERS, HOWEVER, ONLY A SMALL PORTION OF THIS QUOTA WAS ACTUALLY IMPORTED DURING 1976 AND 1977. IN OBTAINING EVEN THE LIMITED QUOTA FOR U.S. WINE IMPORTS WE CALLED TO THE ATTENTION OF THE MEXICANS THE INCONGRUITY OF OUR MARKETS BEING OPEN TO THEIR ALCOHOLIC PRODUCTS WHEREAS THEIR'S

WAS CLOSED TO MOST OF OUR ALCOHOLIC PRODUCTS. DISTRIBUTORS CONSIDER THE MEXICAN MARKET FOR U.S. WINES, PARTICULARLY TABLE WINES, VERY PROMISING BECAUSE OF PROXIMITY TO CALIFORNIA AND SIMILARITY OF TASTES, PROVIDED THEY CAN GET IMPORT LICENSES AND THE TARIFF IS NOT PROHIBITIVE. HOWEVER, THEY BELIEVE THE NEW LAW WILL PRICE FOREIGN WINES OUT OF THE MARKET HERE. OUR DATA SHOW THAT MEXICO EXPORTED OVER 27 MILLION DOLLARS WORTH OF BEER, BRANDY, LIQUORS, AND TEQUILA TO THE U.S. IN 1976. IN 1977 IT EXPORTED ABOUT 13 MILLION DOLLARS OF TEQUILA ALONE.

6. AN ADDITIONAL NTB MAY EXIST AS WELL. DISTRIBUTORS ARE NOW TELLING US THAT MEXICAN TAX AUTHORITIES ARE

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PAGE 01 MEXICO 05012 02 OF 02 282208Z
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UNCLAS SECTION 02 OF 02 MEXICO 05012

RESTRICTING THE AMOUNT OF TAX STAMPS ("MARBETES" UNDER SECTION 34 OF THE LAW) WHICH CAN BE PURCHASED TO NO MORE THAN 15 PERCENT OF THOSE PURCHASED DURING THE SAME MONTH OF THE PREVIOUS YEAR. TO OBTAIN MORE REQUIRES SPECIAL AUTHORIZATION AND CONSIDERABLE RED TAPE. THIS PRACTICE EFFECTIVELY PRECLUDES EXPANSION OF THE MARKET OR INTRODUCTION OF NEW WINE VARIETIES AND, WE BELIEVE, IS FURTHER INDICATION OF THE PURPOSE BEHIND THE LAW.

7. WE BELIEVE THE DIFFERENTIAL MEXICAN TAXATION FALLS UNDER SECTION 301(A) OF THE TRADE ACT AND REQUIRES A FIRM RESPONSE ON OUR PART. FURTHERMORE, WE SHOULD POINT OUT THAT SUCH PRACTICES ARE NOT CONGRUENT WITH GATT MEMBERSHIP, TO WHICH MEXICO ASPIRES. IF MEXICO WANTS TO PROTECT AN

INDUSTRY IT SHOULD DO IT BY MEANS OF A TARIFF WE CAN DISCUSS IN INTERNATIONAL FORUMS. MEXICO IS A RAPIDLY GROWING MARKET, SECTORS OF WHICH IT IS NOT IN OUR INTEREST TO ALLOW TO BE FORECLOSED TO COMPETITIVE U.S. PRODUCTS, ESPECIALLY IN VIEW OF ITS RAPIDLY GROWING FOREIGN EXCHANGE FROM OIL AND GAS EXPORTS PRIMARILY TO US. THERE IS AN INTERNAL DEBATE GOING ON WITHIN THE GOM OVER HOW FAR

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PAGE 02 MEXICO 05012 02 OF 02 282208Z

TO GO IN LIBERALIZING TRADE AND REMOVING ANTI-COMPETITIVE DOMESTIC PRACTICES. UNLESS WE WEIGH IN ON THE SIDE OF THE LIBERALIZERS NOW WITH A NOTE, THE GOM MAY WELL USE SIMILAR DIFFERENTIAL TAXATION MEASURES IN THE FUTURE AS IT CHANGES ITS IMPORT SYSTEM FROM LICENSES TO TARIFFS. NOT ALL SECTORS OF THE GOM MAY BE AWARE OF THE NEW LAW OR ITS IMPACT. NOR MAY THEY BE AWARE OF WHAT WAS DONE TO FACILITATE ENTRY OF MEXICAN TEQUILA DUTY-FREE IN BULK UNDER GSP. WE REQUEST THAT THE DEPARTMENT PROVIDE US GUIDANCE IN DRAWING UP A NOTE TO PRESENT TO THE GOM ON THE SUBJECT.

8. THE FRENCH COMMERCIAL COUNSELOR HAS TOLD US THAT THEY HAVE INFORMALLY PROTESTED THE NEW TAXES TO THE MINISTRY OF TREASURY. THEY CLAIM THE TAXES WILL WIPE OUT AN IMPORTANT MARKET FOR THEIR WINES AND COGNAC. THE MEXICAN TAXATION AUTHORITIES HAVE TOLD THEM IT IS AN INTERNAL MATTER, A REPLY WHICH SEEMS TO FRUSTRATE THE FRENCH, BUT THEY ARE HOPEFUL THEY WILL OBTAIN SOME FAVORABLE REGULATION. WE DO NOT BELIEVE WE SHOULD TAKE UP THE SUBJECT IN THIS MANNER NOR SETTLE FOR "FAVORABLE REGULATION". THE GERMAN EMBASSY IS INFORMING BONN AND ASKING FOR INSTRUCTIONS. WE HAVE INFORMALLY CALLED THE MATTER TO THE ATTENTION OF THE OFFICE OF HECTOR HERNANDEZ, UNDERSECRETARY FOR INTERNATIONAL COMMERCE, AND HAVE BEEN TOLD THEY KNEW NOTHING ABOUT IT BUT WILL LOOK INTO IT.

9. WE ARE POUCHING COPIES OF THE RELEVANT SECTION OF THE NEW LAW, PUBLISHED IN THE DIARIO OFICIAL OF DECEMBER 30, 1977, UNDER AN AIRGRAM REFERENCED TO THIS TELEGRAM. WE WOULD APPRECIATE RECEIVING THE DEPARTMENT'S GUIDANCE AT AN EARLY DATE. LUCEY

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